



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,102	09/20/2003	Oliver Schmidt	(E) 1844 US	8533
7590	07/11/2005		EXAMINER	
M. Robert Kestenbaum 11011 Bermuda Dunes NE Albuquerque, NM 87111			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,102	SCHMIDT, OLIVER	
	Examiner	Art Unit	
	Josiah Cocks	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 April 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 April 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed 4/25/2005 is acknowledged.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings filed 4/25/2005, while addressing the prior objection of the drawings due to poor lead lines and reference characters, appear to be photocopies of the prior drawings and include a substantial number of copy machine marks (see 37 CFR 1.83(e)). Further, the examiner notes that claim 8 recites a heating device comprising a combustion chamber but does not show these features in the drawings. Therefore, the heating device and combustion chamber must be shown or the feature(s) canceled from the claim(s) (see 37 CFR 1.83(a)). No new matter should be entered.

Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment

Art Unit: 3749

paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3-8 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/57446 A1 published August 9, 2001 (Note: U.S. Patent 6,540,151 to Steiner et al. ("Steiner") is the U.S. equivalent of WO 01/57446 A1 and is regarded as an English translation of the PCT patent. Steiner is therefore incorporated into this rejection as an English translation and references to figures and columns below refer to the U.S. Steiner patent).

Steiner discloses in Figures 1-8 a vehicle heating device and lining for a combustion chamber of the heating device substantially as described in applicant's claims 1 and 3-8. In particular, Steiner shows a lining member/sieve element (6) of porous material formed for fuel forwarding by capillary action (see Steiner, col. 4, lines 47-54) and comprising a fuel receiving region and a fuel flow guiding arrangement provided in the lining member that is considered to include a region of increased flow resistance that influences a flow direction of a fuel and may be considered to be formed of a compressed material that also forms a groove (see Steiner, Figs. 1 and 2 and portion 12 and space/groove 8 taken together). Alternatively, as shown in Fig. 8, the lining/sieve element (6) includes portions (20) that form grooves that the examiner considers to be regions of increased flow resistance that influence a flow direction of fuel. The lining member/sieve element (6) surrounds a fuel supply region (note Fig. 1)). The examiner notes that as connecting pipe (1) is in fluid connection with combustion chamber (2) it may also be considered to be a combustion chamber as claimed by applicant. The lining/sieve element (6) is shown to be liner for the inner wall pipe (1).

Alternatively, in regard to the recitation of claim 1 that the lining is "to be provided on the inner wall of the combustion chamber" this is simply a statement of intended use. A recitation of the intended use of the claimed invention must result in a structural difference

between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In the present case, the lining of Steiner would be capable of being provided on an inner wall of a combustion chamber and therefore meets the claims.

Response to Arguments

5. Applicant's arguments filed 4/25/2005 have been fully considered but they are not persuasive. Applicant argues that the limitation that the lining is "to be provided on the inner wall of the combustion chamber" distinguishes applicant's claims over Steiner. However, first the examiner notes that applicant's claims 1-7 are not properly considered combination claims that positively recite both a lining member and combustion chamber. These claims are drawn only to the lining member and the "to be provided..." limitation is merely a statement of intended use. As noted above, the structure of the lining member is present in Steiner and therefore meets the structural limitations of the claims. Further, the examiner also notes that connecting pipe (1) may properly be considered a combustion chamber as claimed.

Applicant also argues that Steiner does not show a region of increased flow resistance. However, as noted above, the examiner considers such a region to be present in Steiner.

Accordingly, applicant's claims are not considered to patentably distinguish over the prior art of record.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Art Unit: 3749

applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
July 7, 2005



JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749